



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
TITLE GUARANTEE AND TRUST CO.)

Appearances:

For Appellant: R. ii. Morlan, President of said corporatio
Clinton La Tourrette for O'Melveny, Tuller
& Myers, its attorneys; Thomas & Moore,
Certified Public Accountants.
For Respondent: Chas. J. McColgan, Franchise Tax Commissio:

O P I N I O N

This is an appeal pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of 1929) from the action of the Franchise Tax Commissioner in overruling the protest of Title Guarantee and Trust Co. to his proposed assessment of an additional tax in the amount of \$13,238.41, based upon the report of said corporation for the year ended December 31, 1929.

The Appellant is engaged in the business of an insurance company operating such business under the jurisdiction of the Insurance Commissioner of this State. In its insurance department the corporation issues policies of title guarantee and engages in related activity. In addition to this insurance business the company conducts a trust department operated under the supervision of the State Banking Commissioner.

There can be no doubt that the net income of the Appellant from its insurance business is not taxable under the Act. A gross premium tax is imposed upon insurance companies in lieu of all other taxes and licenses except taxes on their real property (Const. Art. XIII, Sec. 14b; Pol. Code Sec. 3664b). However, since a part of the activity of the Appellant is not that of an insurance company it is, to such an extent, taxable under this Act (Const. Art. XIV, Sec. 16). As to these basic propositions there has been no controversy between the Commissioner and the Appellant but the Commissioner has questioned the division which the Appellant made assigning its income to insurance company and other corporate activity.

At the oral hearing on the appeal it was suggested that the Commissioner make such audit as he might deem necessary to verify the allocation of the income between the Appellant's title insurance and trust company departments and to report his findings to this Board for such further order as might be deemed proper. We are now advised by the Commissioner that he is satisfied the substantial portion of the revenue in question was properly assigned by the company to its insurance business

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but that he is of the opinion that an additional tax of \$1,337.03 should still be assessed. Counsel for the Appellant have informed us that these findings are acceptable too. In view of the detailed analysis which the Commissioner has made of the respective businesses conducted by the Appellant, we shall accept his undisputed findings without further discussion.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding., and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the action of the Franchise Tax Commissioner in overruling the protest of Title Guarantee and Trust Co., a corporation, to his proposed assessment of an additional tax of \$13,238.41 based upon the return of said corporation for the year ended December 31, 1929, under Chapter 13, Statutes of 1929, be and the same is hereby modified to the end that the amount of said additional assessment is reduced to \$1,337.03 in conformity with the recommendations of said Commissioner to which said Appellant has acceded.

Done at Sacramento, California, this 15th day of December, 1931, by the State Board of Equalization.

Jno. C. Corbett, Chairman
H. G. Cattell, Member
R. E. Collins, Member
Fred E. Stewart, Member

ATTEST: Dixwell L. Pierce, Secretary